

Minutes of a Meeting of the Industrial Commission of North Dakota

Held on September 7, 2023 beginning at 1:30 p.m.

Governor's Conference Room

Present: Governor Doug Burgum, Chairman

Attorney General Drew H. Wrigley Agriculture Commissioner Doug Goehring

Also Present: This meeting was open through Microsoft Teams so not all attendees are known.

Agency representatives joined various portions of the meeting.

Governor Burgum called the meeting of the Industrial Commission to order at approximately 1:35 p.m.

**OFFICE OF THE INDUSTRIAL COMMISSION**

Ms. Karen Tyler presented for consideration of approval the July 28, 2023 meeting minutes.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the July 28, 2023 Industrial Commission meeting minutes**

**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Karen Tyler presented for consideration of approval budget transfer recommendations.

The memo reads as follows:

Section 8 of HB 1014 passed by the 68<sup>th</sup> Legislative Assembly states the following:

The sum of \$1,818,114, or so much of the sum as may be necessary, included in the appropriation in subdivision 1 of section 1 of this Act, may be transferred from the entities within the control of the industrial commission or entities directed to make payments to the industrial commission fund for administrative services rendered by the commission. Transfers must be made during the biennium beginning July 1, 2023, and ending June 30, 2025, upon order of the commission. Transfers from the student loan trust fund must be made to the extent permitted by sections 54-17-24 and 54-17-25.

**For the 2023-2025 biennium, I recommend a transfer up to the following amounts from the listed Industrial Commission agencies and programs, as authorized by HB 1014:**

Bank of North Dakota	\$275,000	15%
North Dakota Mill	\$240,000	13%
Outdoor Heritage Fund	\$240,000	13%
Clean Sustainable Energy Authority	\$200,000	11%
Housing Finance Agency	\$200,000	11%

Lignite Research Fund	\$200,000	11%
Oil & Gas Research Program	\$200,000	11%
Renewable Energy Fund	\$130,000	7%
Public Finance Authority	<u>\$130,000</u>	7%
	\$1,815,000	

The percentage of the total authorized transfer assigned to each agency or program is largely in keeping with historical transfer recommendations. There is an increase to the CSEA transfer as the program will be active for the full biennium. All agencies and programs will see an increase in the dollar amount transferred due to the addition of two FTEs to the Office of the Industrial Commission to provide administrative support, and the approval by the legislature of one-time funding for the historical records project.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the transfer of funds from Industrial Commission agencies and programs under the authority set forth under Section 8 of HB 1014 passed by the 68<sup>th</sup> Legislative Assembly as follows:**

**The sum of \$1,818,114, or so much of the sum as may be necessary, included in the appropriation in subdivision 1 of section 1 of this Act, may be transferred from the entities within the control of the industrial commission or entities directed to make payments to the industrial commission fund for administrative services rendered by the commission. Transfers must be made during the biennium beginning July 1, 2023, and ending June 30, 2025, upon order of the commission. Transfers from the student loan trust fund must be made to the extent permitted by sections 54-17-24 and 54-17-25.**

**and in the following amounts as recommended by the Interim Executive Director:**

<b>Bank of North Dakota</b>	<b>\$275,000</b>	<b>15%</b>
<b>North Dakota Mill</b>	<b>\$240,000</b>	<b>13%</b>
<b>Outdoor Heritage Fund</b>	<b>\$240,000</b>	<b>13%</b>
<b>Clean Sustainable Energy Authority</b>	<b>\$200,000</b>	<b>11%</b>
<b>Housing Finance Agency</b>	<b>\$200,000</b>	<b>11%</b>
<b>Lignite Research Fund</b>	<b>\$200,000</b>	<b>11%</b>
<b>Oil &amp; Gas Research Program</b>	<b>\$200,000</b>	<b>11%</b>
<b>Renewable Energy Fund</b>	<b>\$130,000</b>	<b>7%</b>
<b>Public Finance Authority</b>	<b><u>\$130,000</u></b>	<b>7%</b>
	<b>\$1,815,000</b>	

**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

**PUBLIC FINANCE AUTHORITY**

Ms. DeAnn Ament presented for consideration of approval the following loan applications:

- i. **Grand Forks – Clean Water - \$3,430,000 increase to previously approved \$5,607,000.** The increased loan amount is for Phase 2 of construction of a sanitary sewer collection system, which will serve a newly annexed area of the City. The requested loan term is 30 years. The City will issue an improvement bond payable with special assessment collections, for Phase 2 of the project. The annual payment will average \$146,344.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommended \$3,430,000 increase to the previously approved \$5,607,000 (totaling \$9,037,000) Clean Water State Revolving Fund Program loan to the City of Grand Forks.**

**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

**A RESOLUTION WAS MADE**

**RESOLUTION APPROVING  
LOAN FROM CLEAN WATER STATE REVOLVING FUND**

- WHEREAS,** the Industrial Commission has heretofore authorized the creation of a Clean Water State Revolving Fund Program (the "Program") pursuant to N.D.C.C. chs. 6-09.4, and 61-28.2; and
- WHEREAS,** the State Revolving Fund is governed in part by the Master Trust Indenture dated as of July 1, 2011 (the "Indenture"), between the North Dakota Public Finance Authority (the "NDPFA") and the Bank of North Dakota (the "Trustee"); and
- WHEREAS,** the City of Grand Forks (the "Political Subdivision") has requested a \$3,430,000 loan increase to their previously approved \$5,607,000 loan (total \$9,037,000) from the Program to construct a sanitary sewer collection system to serve a newly annexed area of the City; and
- WHEREAS,** NDPFA's Advisory Committee is recommending approval of the Loan; and
- WHEREAS,** there has been presented to this Commission a form of Loan Agreement proposed to be adopted by the Political Subdivision and entered into with the NDPFA;

**NOW, THEREFORE, BE IT RESOLVED** by the Industrial Commission of North Dakota as follows:

1. The Loan is hereby approved, as recommended by the Advisory Committee.
2. The form of Loan Agreement to be entered into with the Political Subdivision is hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.
3. The Executive Director is authorized to fund the Loan from funds on hand in the Clean Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in

the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.

4. The Commission declares its intent pursuant to Treasury Regulations '1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.

Adopted: September 7, 2023

- ii. **Fargo – Clean Water - \$10,647,000 for construction.** Proceeds of the loan will be used to finance construction for the reclamation and redevelopment of a former landfill site. The requested loan term is 30 years. The City will issue a revenue bond payable from solid waste fund revenues. The annual payment will average \$385,371.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommended \$10,647,000 loan for construction from the Clean Water State Revolving Fund for the City of Fargo.**

**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

**A RESOLUTION WAS MADE**

**RESOLUTION APPROVING  
LOAN FROM CLEAN WATER STATE REVOLVING FUND**

**WHEREAS,** the Industrial Commission has heretofore authorized the creation of a Clean Water State Revolving Fund Program (the "Program") pursuant to N.D.C.C. chs. 6-09.4 and 61-28.2; and

**WHEREAS,** the Clean Water State Revolving Fund is governed in part by the Master Trust Indenture dated as of July 1, 2011 (the "Indenture"), between the North Dakota Public Finance Authority (NDPFA) and the Bank of North Dakota (the Trustee); and

**WHEREAS,** the City of Fargo (the "Political Subdivision") has requested a loan in the amount of \$10,647,000 from the Program to reclaim and redevelop a former landfill site that is not meeting leachate regulations to remove a potential environmental liability and provide additional solid waste disposal volume; and

**WHEREAS,** the NDPFA's Advisory Committee is recommending approval of the Loan; and

**WHEREAS,** there has been presented to this Commission a form of Loan Agreement proposed to be adopted by the Political Subdivision and entered into with the NDPFA;

**NOW, THEREFORE, BE IT RESOLVED** by the Industrial Commission of North Dakota as follows:

1. The Loan is hereby approved, as recommended by the Advisory Committee.

2. The form of Loan Agreement to be entered into with the Political Subdivision is hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.

3. The Executive Director is authorized to fund the Loan from funds on hand in the Clean Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.

4. The Commission declares its intent pursuant to Treasury Regulations '1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.

Adopted: September 7, 2023

Ms. Ament presented a memo of State Revolving Fund loans approved by the Advisory Committee, which by policy can make loans under the State Revolving Fund Program in an amount not to exceed \$2,000,000:

- i. Fargo – Clean Water - \$701,000 for engineering – This loan is for the engineering of the reclamation and redevelopment of a former landfill site that is not meeting today's leachate regulations. This will remove a potential environmental liability and provide the region with additional solid waste management disposal volume that meets current landfill standards. The requested loan terms are 30 years. They will issue revenue bonds payable with solid waste fund user fees.
- ii. Mapleton – Clean Water - \$1,975,000 – This project will consist of replacing asbestos cement pipe water main, hydrants, gate valves, curb stops and fittings, looping the water main between 2<sup>nd</sup> Street and 5<sup>th</sup> Avenue to improve fire flows and provide redundancy, spot repairs to the damaged sanitary sewer main, replacing undersized storm water lift station and connecting the 2<sup>nd</sup> Street storm sewer system to 1<sup>st</sup> Street storm sewer system. The requested loan term is 30 years. The City will issue improvement bonds payable with special assessments. The improvement bonds will be a contingent general obligation of the City, backed by the statutory requirement that the City will levy a general deficiency tax in the event that the revenues from the collection of special assessments are not sufficient to pay the debt service on the improvement bonds.
- iii. Mapleton – Drinking Water - \$825,000 – This project will consist of replacing asbestos cement pipe water main, hydrants, gate valves, curb stops and fittings, looping the water main between 2<sup>nd</sup> Street and 5<sup>th</sup> Avenue to improve fire flows and provide redundancy, spot repairs to the damaged sanitary sewer main, replacing undersized storm water lift station and connecting the 2<sup>nd</sup> Street storm sewer system to 1<sup>st</sup> Street storm sewer system. The requested loan term is 30 years. The City will issue improvement bonds payable with special assessments. The improvement bonds will be a contingent general obligation of the City, backed by the statutory requirement that the City will levy a general deficiency tax in the event that the revenues from the collection of special assessments are not sufficient to pay the debt service on the improvement bonds.

**TRANSMISSION AUTHORITY**

Mr. Claire Vigesaa and Mr. John Weeda presented a Transmission Authority Summary of the 2023 annual report, the 2023 Resource Adequacy annual report, and a report on an analysis of EPA's proposed carbon rules.

- i. Whether the issue is project development or legislative initiatives, the Authority is actively engaged in seeking ways to improve North Dakota's energy export capabilities along with transmission capabilities within the state. To be successful Authority staff must understand the technical and political challenges associated with moving energy from generator to satisfied customer. Outreach to existing transmission system owners and operators and potential developers in order to understand the nuances of successful transmission infrastructure development is necessary. Another key element for success is working with officials at the state and federal levels to ensure that legislation and public policy are designed to support the movement of electricity generated from North Dakota's abundant energy resources to local, regional, and national markets.
- ii. The North Dakota Transmission Authority periodically conducts independent evaluation of factors that affect the adequacy of transmission in North Dakota. Two studies of that nature were recently completed:
  - a. Grid Studies - To help understand the demand for electricity in the growth area in the oil producing counties, the NDTA commissioned Barr Engineering to update the 2019 Power Forecast estimating demand growth over the next 20 years. The 2021 update and the full study can be obtained from the North Dakota Industrial Commission web site. Projections of continued growth in the Bakken Oil Field and associated industries remain consistent with the 2021 update.
  - b. In 2023 the North Dakota Transmission Authority commissioned studies of the generating resource adequacy in both the MISO and SPP ISOs. The studies addressed accreditation of generation resources, projected additions, and retirements of generation resources in each ISO. A projection of potential costs on an unsubsidized basis was also included. The results of these studies will be discussed in detail in the Annual Report on Resilience of the Electric Grid to be released on September 1, 2023.
- iii. Generator Interconnection Queue and Transmission Plan Review
  - a. MISO Transmission Expansion Planning (MTEP) – Both MISO and SPP are engaged in transmission planning processes to accommodate the growth of renewable generation and the need to move that generation to the markets. The MISO Board approved the first tranche of the MISO Long Range Transmission Plan in the July 2022 Board meeting. This tranche will be included as an amendment to the MTEP 2021 to avoid delay in starting the projects. That tranche includes \$10.3 Billion of transmission expansion in the upper MISO region. Projects included are expected to have a beneficial impact on North Dakota and will enable reasonable cost for transmission interconnects
  - b. SPP Integrated Transmission Planning process (ITP) – Transmission planning is becoming increasingly complex as the generation mix transitions to a greater portion of intermittent generation resources. The changing mix coupled with

- redistribution of generation resource locations puts strains on existing transmission networks, potentially changing flow directions for the network.
- c. MISO-SPP Joint Transmission Study – The Midcontinent Independent System Operator (MISO) and Southwest Power Pool (SPP) collaborated on a years-long transmission study designed to identify transmission projects with comprehensive, cost effective and efficient upgrades. Both RTOs were looking for solutions to historical challenges facing generation interconnection customers in areas where their boundaries connect, also known as seams. The study began in December 2020.

There have been several transmission projects completed in recent years. Currently smaller projects are underway that enhance the transmission available to North Dakota generators and their access to the energy markets. The SPP projects include: Basin Electric Power Cooperative Western ND projects. The MISO projects include: Minnkota Power Cooperative (ND and Minnesota), Ottertail Power Company (OTP) projects, MISO/SPP Joint Targeted Interconnection Queue (JTIQ) Study, Nexus Line High Voltage Direct Current (HVDC) Line, Xcel Energy, and Montana-Dakota Utilities Co. Transmission improvements, Minnesota Power ALLETE High Voltage Direct Current System, and Grid United.

The electric transmission system in North Dakota is operating well and serving the load reliably with the current generation under average conditions but peak demand times are becoming uncertain. The growth in demand in western North Dakota is challenging the suppliers in that area of the state. They are pursuing both transmission improvements and generation additions to keep pace with the demand. The increase in conservative operations notices, max generation events and emergency procedures is a concern as demand grows. In addition, the seasonal reliability reports issued by the North American Reliability Council have become increasingly concerning about the ability of the grid to be reliable in extreme weather events. Transmission congestion is affecting North Dakota generation resources negatively and wholesale prices are more volatile.

The combined Queues of the three entities are 9,115MW. Nearly all of the projects in the Queues are wind and solar. The ISOs need a balance of resources to keep the grid resilient under all conditions. The efforts of the ISOs and states need to be coordinated to assist the generators and transmission owners to meet that objective.

The pace of change to the grid is a cause of concern to many in the industry. North Dakota has made a clear declaration the “all of the above” energy resources are embraced and supported. The present situation encourages us to continue that path in the electric industry as well. There is a lot of opportunity in North Dakota for increased generation if it is done in a manner that complements the resources that provide the ISOs with resources that can meet the needs at all times and in all weather conditions.

### **MILL AND ELEVATOR**

Mr. Vance Taylor gave a presentation of operations, 4<sup>th</sup> quarter ended June 30, 2023. Operations in the 4<sup>th</sup> quarter led to a profit of \$5,923,246 compared to a profit of \$5,016,908 in last year’s 4<sup>th</sup> quarter. For the year, the Mill had a profit of \$17,238,265 compared to \$14,677,789 last year. Sales for the quarter were \$125,978,112 compared to last year’s \$139,409,200. Operating costs went up from \$11,967,196 for last year’s 4<sup>th</sup> quarter to \$14,875,571 this year.

Mr. Taylor presented for consideration of approval the 2024 Capital Plan.

**Capital Projects for Consideration FY 2024 :**

1. Track 1, 2, 3 Upgrade - \$1,200,000 – Remove and replace 1050 feet of rail track with new ties, track, drain-tile and concrete panels on tracks 1, 2 and 3 south of the bulk flour load out areas.
2. Sifters - \$800,000 – Replace 2 K Mill sifters and 17 sieve stacks that are worn to the point where replacement is necessary to insure reliable operation.
3. B Mill Reflow - \$700,000 – Purchase and install 6 purifiers, 2 pin mills, spouting and necessary sifter sieves to reflow the mill to increase product quality and milling yields on spring wheat.
4. K Mill Upgrades - \$650,000 – Purchase and install a new cleaning house separator, de-stoner and roll stand electrical equipment to improve the efficiency of the milling unit.
5. E Mill Upgrades - \$450,000 – Purchase and install a new cleaning system scale and flow balancer that is worn out to the point where replacement is required.
6. Regrind System Capacity Increase - \$450,000 – Purchase and install necessary equipment to increase daily production of the Regrind system to meet demand. This project includes new cyclone receivers and airlocks, 4 new pin mills and several new sifter stacks.
7. A, B, C Mill Combistoners - \$450,000 – Replace the existing disk and drum separators pieces in the A, B, and C cleaning systems that are worn out and inefficient.
8. Air Makeup System Fans \$350,000 – Replace the existing inefficient fan wall systems with single fan units in the G Mill and Cleaning House.
9. B & K Mill Tempering Systems \$300,000 – Replace existing worn-out wheat tempering conveyors with new units designed to improve the tempering process on the B & K Mills. Update moisture monitors on the A, B, K & WW Mills.
10. Plant Lighting - \$300,000 – Purchase and install new lighting fixtures in several areas of the facility where replacement is needed of worn-out fixtures.
11. WW Mill Upgrades - \$250,000 – The installation of additional grinding equipment and the refurbishment of two filters will increase mill performance and efficiency.
12. Lab & K Mill HVAC Upgrades - \$250,000 – Purchase and install a new HVAC system to replace the worn-out and unreliable equipment currently in use.
13. Semolina Bin Bottoms - \$200,000 – Purchase and install new fluidizing loadout bin hoppers to increase Semolina load-out efficiency into railcars and bulk trucks.
14. D Mill Cleaning Ductwork - \$100,000 – Purchase and install all necessary new duct work to improve reliability and capacity for the D Mill wheat cleaning system.
15. G Mill Farina System - \$75,000 – Purchase and install a collection system to capitalize on increased Farina demand.



16. Forklifts \$75,000 – Trade in two existing forklifts with excessive service hours and replace them with two new units.

17. Loadout Software \$500,000 – Purchase and install the necessary equipment and software needed for the Midds Storage and Processing and North and South bulk flour loadout areas.

18. Computers / Technology \$300,000 – Several system improvements, replacements and upgrades are required on our management information system.

19. Other Capital \$500,000

Total for all Capital Projects (including Other Capital) \$7,900,000

**NORTH DAKOTA MILL  
Capital Plan for FY 2024  
September 7, 2023**

<u>Capital Expense Item</u>	<u>Remaining</u>
<u>Carryover from FY 2023</u>	<u>Budget</u>
Plant	
Phase II Bulk Flour Storage Upgrade	\$ 192,978
Retail Mixes Line Blending System	192,276
C Mill Wheat Delivery System	96,827
Grain Terminal Belt Conveyor Upgrades	457,514
Midds Storage and Handling System Phase I, II, & III	40,821,731
A Mill Roll Conversion	312,612
K Mill High Pressure Fans	450,000
Packing Flour Transfer Upgrade	372,970
A Mill Purifier and Flour Collection Conveyor Upgrade	273,641
Flour Transfer B Filter and Conveyor	167,872
Mill PLC Upgrades (6 Mills A, B, C, K, E, WW)	128,697
Old Warehouse, Lab and SC 3 Roofs	165,000
Door Upgrades	114,651
Fork Lifts	65,000
Rail Car Opener	9,004
G Mill Roof Replacement	53,220
Fire Protection Water Pump	188,260
Electrical Generation	2,517,200
Industrial Vacuum	175,000
<b>Total Carryover Capital Expenditures</b>	<b>\$ 46,754,453</b>

<b>FY 2024 Capital Expense Item</b>	<b>Plan</b>
Plant	
Track 1, 2, 3 Upgrades	1,200,000
Sifters	800,000
B Mill Reflow	700,000
K Mill Upgrades	650,000
E Mill Upgrades	450,000
Regrind System Capacity Increase	450,000
A, B, C Mill Combistomers	450,000
Air Makeup System Fans	350,000
B & K Mill Tempering Systems	300,000
Plant Lighting	300,000
WW Mill Upgrades	250,000
Lab & K Mill HVAC Upgrades	250,000
Semolina Bin Bottoms	200,000
D Mill Cleaning Ductwork	100,000
G Mill Farina System	75,000
Forklifts	75,000
Computers/Technology	
Systems Improvements, replacements, and upgrades	300,000
Loadout Software	500,000
Other	500,000
<b>Total New Capital Expenditures</b>	<b>\$ 7,900,000</b>
<b>Total Capital Expenditures</b>	<b>\$ 54,654,453</b>

**NORTH DAKOTA MILL**  
**Capital Expenditures for FY 2023**  
**September 7, 2023**

<u>Capital Expense Item</u>	<u>Approved / Remaining Budget</u>	<u>Net Capital Cost</u>	<u>Under / (Over)</u>	<u>Completed Project Cost</u>
<b>Plant</b>				
Freight Elevator Upgrade	202,422	90,000	112,422	837,578
Upper Bulk Flour Storage Renovation	76,732	61,101	15,631	619,370
Infestroyer Upgrades	158,610	151,684	6,926	203,074
H & I Mill Expansion	1,500,355	1,500,355	-	24,475,000
D Mill Product Transfer System	57,688	34,707	22,981	767,018
Rail Track, Crossing & Drainage Upgrades	76,919	75,408	1,511	748,489
* Phase II Bulk Flour Storage Upgrade	285,000	92,022	192,978	
Electrical Substation Upgrade	275,000	260,000	15,000	260,000
Wheat Midds Storage & Handling System Engineering	1,133	-	1,133	248,867
* Retail Mixes Line Blending System	195,050	2,774	192,276	
Spare Transformers	75,600	75,000	600	164,400
* C Mill Wheat Delivery System	155,000	58,173	96,827	
* Grain Terminal Belt Conveyor Upgrades	457,514	-	457,514	
Roll Chills	96,213	94,908	1,305	148,696
Autoclave	21,000	21,000	-	21,000
* Midds Storage and Handling System Phase I, II, & III	56,000,000	15,178,269	40,821,731	
Asphalt & Concrete Paving	350,000	349,727	273	349,727
K, C and A Mill Sifter Upgrade	650,000	644,727	5,274	644,727
* A Mill Roll Conversion	470,000	157,388	312,612	
* K Mill High Pressure Fans	450,000	-	450,000	
* Packing Flour Transfer Upgrade	375,000	2,030	372,970	
* A Mill Purifier and Flour Collection Conveyor Upgrade	325,000	51,359	273,641	
* Flour Transfer B Filter and Conveyor	310,000	142,128	167,872	
* Mill PLC Upgrades (6 Mills A, B, C, K, E, WW)	260,000	131,303	128,697	
North Yard Rail Track Upgrade	175,000	150,736	24,264	150,736
* Old Warehouse, Lab and SC 3 Roofs	165,000	-	165,000	
* Door Upgrades	160,000	45,349	114,651	
G, H, and I Mill Central Vacuum System	150,000	144,607	5,393	144,607
* Fork Lifts	65,000	-	65,000	
* Rail Car Opener	45,000	35,996	9,004	
* G Mill Roof Replacement	240,000	186,780	53,220	
* Fire Protection Water Pump	225,000	36,740	188,260	
* Electrical Generation	3,500,000	982,800	2,517,200	
* Industrial Vacuum	175,000	-	175,000	
<b>Computers/Technology</b>				
Systems Improvements, Replacements, and Upgrades	300,000	149,539	150,461	
Server Storage				149,539
<b>Other</b>	500,000	417,048	82,952	
Spare Blower				77,981
Bucket Elevator Belt & Cups				64,408
Spare Parts Storage				154,361
Convection Oven				12,990
Skid Steer				9,040
H & I Mill Project Overflow				96,696
Autoclave Overflow				1,571
<b>Total Capital Expenditures</b>	<b>\$ 68,524,236</b>	<b>\$ 21,323,656</b>	<b>\$ 47,200,580</b>	<b>\$ 30,349,874</b>

\* Carried over to Fiscal Year 2024

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the North Dakota Mill and Elevator FY 2024 capital expenditures plan as presented.**

**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Taylor presented for consideration of approval the 2024 gain share.

The gain share program works as follows:

- Eligibility – all full-time employees on June 30, 2024 that worked a minimum of 1,000 hours during the program year are eligible.
- No pay out of any bonuses if profit before gain sharing expense accrual and any unknown adjustments (Pension, etc.), positive or negative does not exceed 5.0 million dollars.
- No payout on the profit part of the plan if profit before gain sharing expense accrual and any unknown adjustments (Pension, etc.), positive or negative does not exceed 7.0 million dollars.
- Payout will be calculated as a percent of earnings from July 1, 2023 to June 30, 2024.
- Goal numbers were set to reflect current realities for the new plan year.
- Goal numbers were set by the President and CEO and are attainable with effort.

The plan consists of two independent parts. 4% potential payout is from exceeding gain sharing goals and an un-capped potential payout is from profits.

For the year ending June 30, 2024 the goals are as follows: Gain Sharing 1st Part – 4% Bonus Potential\*

Goals:

- |   |            |
|---|------------|
| • Cwt./man-hour (includes all hours)                        | 39.5       |
| • Cost per cwt. (pre gain sharing exp. and pension adjust.) | \$2.75     |
| • Yield   | 77.8%      |
| • Safety Record   | 172 Points |

\*4% bonus potential if all numbers are met or exceeded. Each goal is worth 1% of the 4%.

Gain Sharing 2nd Part – Uncapped Bonus Potential

Profits (before gain sharing expense accrual and pension adjustments):

7.0 million = 7.0% bonus pay out

Each additional 1.0 million in profits = 1.0% additional bonus payout.

The 1st Part of the gain sharing goals begin to payout at a profit (before gain sharing expense accrual and any unknown adjustments - Pension, etc. , positive or negative) level greater than \$5.0 million. The 2nd Part of the gain sharing goals begin to payout at a profit (before gain sharing expense accrual) level greater than \$7.0 million.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the North Dakota Mill and Elevator FY 2024 gain sharing plan as presented.**

**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Governor Burgum requested a motion to move into Executive Session.

**It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that under the authority of North Dakota Century Code Sections 6-09-35, 44-04-18.4, 44-04-19.1, 44-04-19.2, the Industrial Commission enter into executive session for the purposes of Mill and Elevator confidential business, Bank of North Dakota confidential business, and Department of Mineral Resources attorney consultation.**

**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

**The Commission is meeting in executive session regarding Mill and Elevator confidential business to consider those items listed on the agenda under North Dakota Mill and Elevator Executive Session. Only Commission members, their staff, Commission staff, and Mill and Elevator staff will participate in that executive session.**

**After the Mill and Elevator executive session, the Commission will meet in executive session for Bank of North Dakota confidential business to consider those items listed on the agenda under Bank of North Dakota Executive Session. Only Commission members, their staff, Commission staff, and Bank of North Dakota staff will participate in that executive session.**

**After the Bank of North Dakota executive session, the Commission will meet in executive session for attorney consultation related to the case listed on the agenda. Only Commission members, their staff, Commission staff, and Department of Mineral Resources staff will participate in that executive session.**

**Any formal action taken by the Commission will occur after it reconvenes in open session.**

**Governor Burgum reminded the Commission members and those present in the executive sessions that the discussions must be limited to the announced purposes which is anticipated to last approximately 1 hour and 15 minutes.**

**The executive session began at 2:45 p.m.**

**The Meeting Closed to the Public for Executive Session Pursuant to NDCC 6-09-35, 44-04-18.4, 44-04-19.1, 44-04-19.2.**

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#### **THE MILL AND ELEVATOR EXECUTIVE SESSION**

**Industrial Commission Members Present:**

Governor Doug Burgum  
Attorney General Drew H. Wrigley  
Agriculture Commission Doug Goehring

**Mill and Elevator Members Present:**

Vance Taylor, Mill and Elevator  
Cathy Dubb, Mill and Elevator

Others in Attendance:

Ryan Norell	Governor's Office
John Reiten	Governor's Office
Zac Greenberg	Governor's Office
Dutch Bialke	Dept. of Agriculture
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office

**BANK OF NORTH DAKOTA EXECUTIVE SESSION**

**Industrial Commission Members Present:**

Governor Doug Burgum  
Attorney General Drew H. Wrigley  
Agriculture Commission Doug Goehring

**Bank of North Dakota Members:**

Craig Hanson, BND  
Kelvin Hullet, BND  
Kirby Evanger, BND

Others in Attendance:

Ryan Norell	Governor's Office
John Reiten	Governor's Office
Dutch Bialke	Dept. of Agriculture
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office

**DEPARTMENT OF MINERAL RESOURCES EXECUTIVE SESSION**

**Industrial Commission Members Present:**

Governor Doug Burgum  
Attorney General Drew H. Wrigley  
Agriculture Commission Doug Goehring

**Department of Mineral Resources Members:**

Lynn Helms, DMR  
Mark Bohrer, DMR  
Bridget Danso, DMR

Others in Attendance:

Ryan Norell	Governor's Office
John Reiten	Governor's Office
Dutch Bialke	Dept. of Agriculture
Matt Sagsveen	Attorney General's Office
Phil Axt	Attorney General's Office

Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office

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The executive session ended at 4:24 p.m. and the Commission reconvened in open session.

During the Mill and Elevator executive session, the Commission discussed the Mill and Elevator 2024 Strategic Plan. This plan will be voted on at the next Industrial Commission meeting.

**During the Bank of North Dakota executive session, the Commission made a motion regarding three loan approvals.**

**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

During the Department of Mineral Resources executive session, the Commission consulted with its attorney. No formal action was taken in the Department of Mineral Resources executive session.

#### **INDUSTRIAL COMMISSION LEGAL UPDATE**

Mr. Phil Axt presented the Mercury and Air Toxics Standards (MATS) Proposed Rule. This spring, the EPA had presented a proposed rule to tighten the restrictions in several ways even though they have stated there is no public health benefit to the tightening of the restrictions. One of their main changes is to treat the mercury emissions standards for Lignite the same as other types of coal. Lignite has always had different standards because of its scientific differences, and professionals in the industry are saying it is not scientifically possible to reduce the Lignite mercury emissions to the levels that the EPA is proposing. A second related aspect is an overall general reduction of particular matters upon which EPA has tightened the allowance significantly. This will be a technical problem for ND to comply, the costs would increase significantly, and it will lead to grid reliability issues. The current timeline for the release of the final rule is March 2024. North Dakota is working with other states to move forward with litigation if necessary.

Mr. Matt Sagsveen presented the EPA Section 111 Greenhouse Gas Proposed Rule. A comment letter was submitted to the EPA on August 8<sup>th</sup> regarding EPA's proposed rule for new source performance standards for greenhouse gas emissions for new, modified and reconstructed fossil fuel electrical generating units. The comments were a collaboration of DEQ, NDIC, DMR, PSC, the Transmission Authority, and staff members from the Governor's Office. The EPA's estimated final rule is currently scheduled to be released in April of 2024.

Dr. Lynn Helms presented an update on BLM Leasing. They are currently drafting a response to the BLM follow up status report. Complaints were filed with Judge Traynor regarding the list of 24 priority parcels that are impacting state lands that need to be leased. BLM proposed to lease 6 parcels in September, none of which are on the priority list. BLM did realize they did not have a strong case to appeal Judge Traynor's conjunction order and his demand for status reports, so they withdrew their appeal. They have a deadline prior to their next conference in October 2023.

Mr. Axt presented an update on NW Landowners v. NDIC. We are currently facing amalgamation

challenges. There were no significant updates, and we are still working towards a December date for Dispositive motions.

Dr. Helms presented the Department of Mineral Resources Litigation Update:

- i. Case No. 31-2020-CV-0018 – Northern Oil and Gas, Inc. vs. Continental Resources, Inc; Board of University and School Lands and ND Industrial Commission et al – Ordinary High Water Mark challenge – Moved to May 6, 2024
- ii. Blue Appaloosa – appeal of Industrial Commission Order 31208 – their objection is that they have no assets and are bankrupt (they have not filed bankruptcy and are a foreign corporation still in good standing in the state of ND so it is believed that is a good enough reason for the court to grant the order)
- iii. Dominek v Equinor et al – allocation of production from overlapping spacing units – The case has been dismissed. It was determined that they needed to exhaust administrative remedies through the Industrial Commission first.
- iv. Liberty Resources vs. NDIC et al – appeal of Industrial Commission Order 31792 – Waiting on district court decision.

#### **DEPARTMENT OF MINERAL RESOURCES**

Dr. Helms and Mr. Bohrer presented for consideration of approval the following cases:

- i. **Order 32614 for Case 30006** – In the matter of a hearing called on a motion of the Commission to consider the termination, reduction, or any other appropriate action of the Glass Bluff-Madison Unit, McKenzie and Williams Counties, ND, operated by Liberty Resources Management Co., LLC; to review the Glass Bluff-Madison Unit bond amount required for the operation of said unit pursuant to NDAC § 43-02-03-15; to review the requirements set forth in Order No. 31560 that required nine certain wells to be plugged and abandoned; and such other relief as is appropriate.
- ii. **Order 32615 for Case 32615** – In the matter of the joint application of Liberty Resources Management Company, LLC and Rocky Top Energy, LLC for an order of the Commission amending Order No. 31560 entered in Case No. 29009 which required the plugging of certain wells and instead allowing some or all wells to be brought back on production, such wells being located in the Glass Bluff-Madison Unit, McKenzie and Williams County, ND, and/or such further and additional relief.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32614 issued in Case No. 30006 to allow the Glass Bluff-Madison Unit to remain in effect, require a \$2,400,000 unit bond for the Glass Bluff-Madison Unit, McKenzie and Williams Counties, ND, require a \$1,700,000 bond for wells plugged and reclaimed with CARES Act funds or Abandoned Oil and Gas Well Plugging and Site Reclamation fund, and/or such further relief, and that the Industrial Commission approves Order No. 32615 issued in Case No. 29807 facilitating the transfer of the Glass Bluff-Madison Unit, McKenzie and Williams County, ND, to Rocky Top Energy, LLC, require certain wells to be brought into compliance by June 1, 2024, prohibiting the use of pipelines within the unit until a pressure test is witnessed by the Department of Mineral Resources, prohibiting the use of unit facilities until approved by a Department of Mineral Resources inspector, requiring prior approval for all perforations and recompletions, requiring a temporary spacing hearing for all wells recompleted outside the unitized formation, and/or such further relief.**



**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

- iii. **Order 32819 for Case 30209** – Application of Phoenix Operating LLC for an order amending the applicable orders for the Smoky Butte/Green Lake-Bakken Pool to establish an overlapping 3840-acre spacing unit described as Sections 1 and 2, T.159N., R.100W., Williams County, ND and Sections 25, 26, 35 and 36, T.160N., R.100W., Divide County, ND and to authorize 1 horizontal well to be drilled on such unit and granting such other relief as may be appropriate.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32819 issued in Case No. 30209 approving the application of Phoenix Operating LLC for an order amending the applicable orders for the Smoky Butte/Green Lake-Bakken Pool to establish an overlapping 3840-acre spacing unit described as Sections 1 and 2, T.159N., R.100W., Williams County, ND and Sections 25, 26, 35 and 36, T.160N., R.100W., Divide County, ND and to authorize 1 horizontal well to be drilled on such unit and granting such other relief as may be appropriate.**

**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

**Order 32914 for Case 30329** – Regarding the authorization for the Department of Mineral Resources to proceed with the administrative hearing process and publish for hearing and comment the draft rules amendments to the “General Rules and Regulations for the Conservation of Crude Oil and Natural Gas” codified as Title 43 North Dakota Administrative Code.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Department of Mineral Resources is authorized to proceed with the administrative hearing process for Case No. 30329 and publish for hearing and comment the draft rule amendments to the “General Rules and regulations for the Conservation of Crude Oil and Natural Gas” codified as Title 43 of the North Dakota Administrative Code.**

**On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

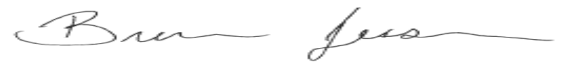
Due to time constraints, the Geological Survey Quarterly Report will be moved to the next Industrial Commission meeting.

Under other business, Dr. Helms mentioned that they are monitoring the BLM proposed leasing rule. They have a request for an extension of the comment period submitted, but the comments are due by September 22<sup>nd</sup> if the extension is not granted. He stated that they will have comments ready for the proposed leasing rule either way, and that the proposed rule is a very extensive rewrite of way more than just their current leasing rule.

The next Industrial Commission meeting will be held on Wednesday, October 4<sup>th</sup>, 2023.

Governor Burgum adjourned the meeting at 5:20 pm.

North Dakota Industrial Commission



Brenna Jessen, Recording Secretary



Reice Haase, Deputy Executive Director



Karen Tyler, Interim Executive Director